

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN NYPL, et al., :
Plaintiffs, :
: :
-against- :
: :
JP MORGAN CHASE & CO., et al., :
Defendants. :
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15 Civ. 9300 (LGS)

ORDER

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on March 18, 2019, the Court so ordered a Stipulation and Order Concerning Deposition Coordination (the "Stipulation"). *See* Dkt. No. 425. The Stipulation includes the following provisions:

WHEREAS, pursuant to Rules 30, 31, and 45 of the Federal Rules of Civil Procedure, the *Nypl* Plaintiffs, apart from experts, are only seeking the depositions of (i) the signatories to the May 20, 2015 plea agreements between the United States Department of Justice and Barclays PLC, Citicorp, JPMorgan Chase & Co., Royal Bank of Scotland PLC, and UBS AG, the December 11, 2012 deferred prosecution agreement between the United States Department of Justice, HSBC Holdings PLC, and HSBC Bank USA, N.A., and the January 18, 2018 deferred prosecution agreement between the United States Department of Justice and HSBC Holdings PLC (each, a "Signatory Witness," and, collectively, "Signatory Witnesses") and/or a corporate representative designated under Rule 30(b)(6) that is knowledgeable about said corporations' May 20, 2015 plea agreements or the December 11, 2012 and January 18, 2018 deferred prosecution agreements, on topics limited to those agreements (each, a "30(b)(6) Witness," and, collectively, "30(b)(6) Witnesses"); and (ii) Matthew Gardiner.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys, on behalf of the *Nypl* Plaintiffs and *Nypl* Defendants, as follows: . . . (2) *Nypl* Plaintiffs shall be limited to seeking only depositions of (i) the Signatory Witnesses and/or 30(b)(6) Witnesses, and (ii) Matthew Gardiner.

WHEREAS, on December 4, 2019, the testamentary discovery stay in this case was lifted as to defendants for whom discovery is not stayed in its entirety for all witnesses but for Frank Cahill, Serge Sarramegna, Jason Katz, Christopher Cummins and Nicholas Williams (Dkt. No.

476);

WHEREAS, on December 16, 2019, Plaintiffs were directed to issue or renew any notices for depositions pursuant to the Stipulation by January 3, 2020. Defendants were directed to provide Plaintiffs with their written objections to such notices by January 13, 2020; and the parties were directed to meet and confer regarding Defendants' objections and file a letter with the Court identifying any issues requiring the Court's intervention and resolution (Dkt. No. 479);

WHEREAS, on January 31, 2020, the parties filed a letter describing the issues requiring the Court's intervention and resolution relating to Defendants' objections to Plaintiffs' 30(b)(6) and Signatory Witness deposition notices (Dkt. No. 490). It is hereby

ORDERED that, to the extent that Plaintiffs' deposition notices and topics extend beyond those agreed to in the Stipulation, they are quashed. This includes the following notices and topics:

- Plaintiffs' Rule 30(b)(6) notice on Bank of America Corporation and Bank of America, N.A., and non-party Merrill Lynch, Pierce, Fenner & Smith Incorporated.
- Plaintiffs' Rule 30(b)(6) notice on HSBC Holdings PLC or HSBC Bank USA, N.A. to the extent the designated topics relate to subject matters other than the January 18, 2018 deferred prosecution agreement between the United States Department of Justice and HSBC Holdings PLC. Topics quashed include those relating to the United States Commodity Futures Trade Commission Order.
- Topics in any Rule 30(b)(6) notices relating to the accuracy of the at-issue Department of Justice ("DOJ") press release.
- Plaintiffs' Signatory Witness deposition notice on Axel Weber.

It is further

ORDERED that, by **March 16, 2020**, Plaintiffs shall file a letter on ECF providing further information concerning the relevance of testimony regarding the December 11, 2012 deferred prosecution agreement between the United States Department of Justice, HSBC Holdings PLC, and HSBC Bank USA, N.A.. It is further

ORDERED that, to the extent that any proposed Signatory Witnesses are still employed by Defendants, by **March 16, 2020**, Defendants shall file affidavits from the Signatory Witnesses describing how they came to have knowledge of the matters underlying the applicable plea or deferred prosecution agreements including, as relevant, all facts relevant to a determination of whether they have any knowledge about the underlying facts that is not privileged. To the extent that Plaintiffs seek depositions of Signatory Witnesses who are not employed by Defendants, Defendants are under no obligation to produce them for deposition, and Plaintiffs must serve any such notice on the Signatory Witnesses directly or seek 30(b)(6) witnesses who are employed by the Defendants, pursuant to the Stipulation.

ORDERED that, by **March 16, 2020**, Defendants shall file a letter on ECF informing the Court as to whether they can produce 30(b)(6) witnesses who can testify about the same subject matter as any noticed Signatory Witnesses without the impediments of privilege or the Apex doctrine objections.

Dated: February 24, 2020
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE